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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 JEAN J. SCHWARTZER,

Case No. 2:14-cv-00218-JAD-PAL

7 Plaintiff,

ORDER

8 v.

9 CLARK COUNTY DISTRICT ATTORNEY
ex rel. CLARK COUNTY, et al.,

10 Defendants.

11
12 Before the court is the parties' Confidentiality Stipulation and Order (Dkt. #24), which
13 the court approved, with the exception of a portion of paragraph three, to facilitate the exchange
14 of certain categories of documents in discovery. Specifically, the proposed protective order
15 relates to the Clark County personnel/human resources information and material contained in
16 Plaintiff Jean J. Schwartzer's medical records. This order also reminds counsel that there is a
17 presumption of public access to judicial files and records. A party seeking to file a confidential
18 document under seal must file a motion to seal and must comply with the Ninth Circuit's
19 directives in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

20 A portion of paragraph three of the parties proposed stipulation was not approved and
21 was deleted by the court. It contained language that the court found the Clark County
22 personnel/human resources information and material contained in Plaintiff's medical records
23 were confidential. The court has approved the parties' protective order to facilitate their
24 discovery exchanges. However, the parties have not shown, and court has not found, that any
25 specific documents are secret or confidential. The parties have not provided specific facts
26 supported by affidavits or concrete examples to establish that a protective order is required to
27 protect any specific trade secret or other confidential information under Rule 26(c) or that
28 disclosure would cause an identifiable and significant harm. The Ninth Circuit has held that

1 there is a presumption of public access to judicial files and records and that parties seeking to
 2 maintain the confidentiality of documents attached to non-dispositive motions must show good
 3 cause exists to overcome the presumption of public access. *See Kamakana* 447 F.3d at 1179.
 4 Parties seeking to maintain the secrecy of documents attached to dispositive motions must show
 5 compelling reasons sufficient to overcome the presumption of public access. *Id.* at 1180.

6 Additionally, the court has adopted electronic filing procedures, and with a few
 7 exceptions not applicable here, the Clerk of the Court no longer maintains paper records. Special
 8 Order 109 requires the Clerk of the Court to maintain the official files for all cases filed on or
 9 after November 7, 2005, in electronic form. The electronic record constitutes the official record
 10 of the court. Attorneys must file documents under seal using the court's electronic filing
 11 procedures. *See* LR 10-5(b). That rule provides:


12 Unless otherwise permitted by statute, rule or prior Court order,
 13 papers filed with the Court under seal shall be accompanied by a
 14 motion for leave to file those documents under seal, and shall be
 15 filed in accordance with the Court's electronic filing procedures. If
 16 papers are filed under seal pursuant to prior Court order, the papers
 17 shall bear the following notation on the first page, directly under the
 case number: "FILED UNDER SEAL PURSUANT TO COURT
 ORDER DATED ____." All papers filed under seal will
 remain sealed until such time as the Court may deny the motion to
 seal or enter an order to unseal them, or the documents are unsealed
 pursuant to Local Rule.

18 Accordingly,

19 **IT IS ORDERED:**

- 20 1. The provision of paragraph three that the court has found documents subject to the
 21 parties' stipulation are confidential is NOT APPROVED and is DENIED.
- 22 2. The parties shall comply with LR 10-5(b) and the Ninth Circuit's opinion in
 23 *Kamakana*, 447 F.3d 1172 (9th Cir. 2006), with respect to filing documents under
 24 seal.

25 Dated this 4th day of September, 2014.

26
 27 
 28 PEGGY A. LEEN
 UNITED STATES MAGISTRATE JUDGE